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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,879	06/14/2005	Junichi Nakamura	7217/71169	8796
530 7590 01/12/2010 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			EXAMINER MCINTYRE, CHARLES AARON	
			ART UNIT 3621	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/538,879

Applicant(s)

NAKAMURA ET AL.

Examiner

C. Aaron McIntyre

Art Unit

3621

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8, 10 and 30 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8, 10 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination (“RCE”) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicants' submission received on 24 September 2009 has been entered.

Acknowledgements

2. This non-final Office action responds to the amendment and arguments received from Applicants on 24 September 2009 in reply to the previous Office action on the merits, mailed 22 June 2009.
3. Claims 1-5, 8, 10, and 30 are pending.
4. Claims 1-5, 8, 10, and 30 have been examined.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,212,980 to Nakamura et al., hereinafter referred to as Nakamura, in view of U.S. Patent No. 6,542,870 to Matsumoto

7. Regarding **claim 1**, Nakamura discloses an electronic apparatus ([fig. 3]) having one or more functions ("*functions*" [fig. 3]) on which use limitations ("*trial periods*" [fig. 7]) can be imposed ("*if you agree, press [ok]*" fig. 7)), comprising:

a processor operable to execute ("*system*" [col. 2, ll. 26-34]) said one or more functions ("*system ... provides the target functions*" [col. 2, ll. 26-34]);

storage ("*storage section*" [fig. 1]) operable to store contents of use limitations ("*I Month*" or "*40 days*" [fig. 7]; "*period is set by the management program*" [col. 6, ll. 37-54]) for said one or more functions ("*functions*" [col. 2, ll. 26-34]),

the processor being operable to reference a representation of said contents of use limitations ("*I Month*" or "*40 days*" [fig. 7]; "*In the display of FIG. 7 are shown the trial periods of the respective functions in addition to the functions available for trial*" [col. 6, ll. 37-54]) stored in said storage ("*storage section*" [fig. 1]; "*period is set by the management program*" [col. 6, ll. 37-54]) to determine said contents of use limitations for said one or more functions ("*functions thus selected by the CPU 24 are listed up on display as shown in FIG. 6 ... FIG. 7 are shown the trial periods of the respective functions in addition to the functions available for trial*" [col. 6, ll. 37-54]; [figs. 6-7]), and

being operable to execute said one or more functions only as permitted by said contents of use limitations ("*In the case where the judgment shows that all the functions specified in step*

S13 are operational, a period capable of trial is set by the management program” [col. 7, ll. 50-67]; “Are all the specified functions capable of operation? – S15” and “Is there any function [a]vailable for trial? – S18” [fig. 10]); and

[a] receiving unit (“*input a function release electronic key*” [fig. 4(a)]) operable to receive use-permitting key information (“*electronic key*” [fig. 4(a)]; “*service center, etc., issues a predetermined electronic key*” [col. 5, ll. 19-33]), wherein the use-permitting key information (“*electronic key*” [fig. 4(a)]) is from a source of use permission (“*service center, etc., issues a predetermined electronic key*” [col. 5, ll. 19-33]) which transmitted (“*issues*” [col. 5, ll. 19-33]) the use-permitting key information (“*electronic key*” [fig. 4(a)]), and

wherein said contents of use limitations are derived (“*user can proceed to the authorized use of a function program by the input of an electronic key which releases the function program from access-protect (function release)*” [col. 5, l. 57 - col. 6, l. 11]) from said use-permitting key information (“*input a function release electronic key*” [fig. 4(a)]; “*service center, etc., issues a predetermined electronic key*” [col. 5, ll. 19-33]).

8. But Nakamura does not explicitly disclose an infrared light receiving unit operable to receive information transmitted by infrared communication and transmitting information over a network.

9. However, Matsumoto teaches an infrared light receiving unit (“*light receiving unit – 21*” and “*infrared-ray I/F driver – 22*” [fig. 3]) operable to receive information (“*information to the light receiving unit 21*” [col. 7, ll. 51-55]) transmitted by infrared communication (“*infrared ray signal*” [col. 7, ll. 51-55]) and transmitting information over a network (“*capable of exchanging*

various kinds of information by way of transmission line 3 which is typically implemented by a public line network” [col. 4, l. 66 - col. 5, l. 7]; [fig. 1]; [fig. 3]).

10. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Nakamura so as to have included an infrared light receiving unit operable to receive information transmitted by infrared communication and transmitting information over a network, in accordance with the teaching of Matsumoto, in order to increase convenience and mobility by providing a wireless device capable of performing the use limited functions as well as providing the standard network necessary to transmit information.

11. Regarding **claim 2**, Nakamura discloses wherein said contents of use limitations represent at least one of a number of days said one or more functions are permitted to be executed (“*40 days*” [fig. 7]), a number of times said one or more functions are permitted to be executed (“*predetermined number of times*” [col. 9, ll. 1-25]), or a time period in which said one or more functions are permitted to be executed (“*predetermined duration of time*” [col. 11, ll. 59-67]).

12. Regarding **claim 3**, Nakamura discloses a storage means operable to record at least one of: the number of days said one or more functions has been executed, or the number of times said one or more functions has been executed (“*number of use according to a use status*” [col. 14, ll. 34-40]) by said processor (“*system*” [col. 2, ll. 26-34]),

wherein said processor is operable to reference said number of days or times of use stored in said storage (“*control section 22 checks whether it is within a trial period*” [col. 8, ll. 64-67 – col. 9, ll. 1-24]; step S43 [fig. 12]) to determine at least one of said number of days or said number of times (“*examining whether or not the number of use of trial reached a predetermined number of times*” [col. 8, ll. 64-67 – col. 9, ll. 1-24]) to control execution of said one or more functions (“*thereby terminating the process*” [col. 8, ll. 64-67 – col. 9, ll. 1-24]).

13. But Nakamura does not explicitly disclose that the second storage means is distinct from the first storage means.

14. However, it is admitted prior art that if two sets of data can be stored in one storage device, the second set of data can alternatively be stored in a second storage device.

15. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Nakamura so as to have included a second storage, in accordance with the admitted prior art, in order to allow data to be manipulated separately without the chance of manipulating the first set of data by providing a separate storage location.

16. Regarding **claim 4**, Nakamura discloses an operating input unit operable to receive operator input representing second (“*Press [Start Trial], or Input a Function Release Electronic Key*” [fig. 4(b)]) use-permitting key information (“*Input a Function Release Electronic Key*” [fig. 8(a)]; [fig. 4(a)-4(b)]) supplied from a source of use permission (“*electronic key thus issued*” [col. 5, ll. 19-33]),

wherein said contents of use limitations are derived (“*user can proceed to the authorized use of a function program by the input of an electronic key which releases the function program*”

from access-protect (function release)” [col. 5, l. 57 - col. 6, l. 11]) from said second (“Press [Start Trial], or Input a Function Release Electronic Key” [fig. 4(b)]) use-permitting key information (“input a function release electronic key” [fig. 4(a)]; “service center, etc., issues a predetermined electronic key” [col. 5, ll. 19-33]).

17. Regarding **claim 30**, Nakamura discloses a system comprising:

[a] terminal operable to acquire use-permitting key information (“*input a function release electronic key*” [fig. 4(a)]) from a source of use permission (“*service center, etc., issues a predetermined electronic key*” [col. 5, ll. 19-33]); and

an electronic apparatus ([fig. 3]) having one or more functions (“*functions*” [fig. 3]) on which use limitations (“*trial periods*” [fig. 7]) can be imposed (“*if you agree, press [ok]*” fig. 7)), including:

a processor operable to execute (“*system*” [col. 2, ll. 26-34]) said one or more functions (“*system ... provides the target functions*” [col. 2, ll. 26-34]);

storage (“*storage section*” [fig. 1]) operable to store contents of use limitations (“*1 Month*” or “*40 days*” [fig. 7]; “*period is set by the management program*” [col. 6, ll. 37-54]) for said one or more functions (“*functions*” [col. 2, ll. 26-34]),

the processor being operable to reference a representation of said contents of use limitations (“*1 Month*” or “*40 days*” [fig. 7]; “*In the display of FIG. 7 are shown the trial periods of the respective functions in addition to the functions available for trial*” [col. 6, ll. 37-54]) stored in said storage (“*storage section*” [fig. 1]; “*period is set by the management program*” [col. 6, ll. 37-54]) to determine said contents of use limitations for

said one or more functions (*"functions thus selected by the CPU 24 are listed up on display as shown in FIG. 6 ... FIG. 7 are shown the trial periods of the respective functions in addition to the functions available for trial"* [col. 6, ll. 37-54]; [figs. 6-7]), and

being operable to execute said one or more functions only as permitted by said contents of use limitations (*"In the case where the judgment shows that all the functions specified in step S13 are operational, a period capable of trial is set by the management program"* [col. 7, ll. 50-67]; *"Are all the specified functions capable of operation? - S15"* and *"Is there any function [a]vailable for trial? - S18"* [fig. 10]); and

[a] receiving unit (*"input a function release electronic key"* [fig. 4(a)]) operable to receive said use-permitting key information (*"electronic key"* [fig. 4(a)]; *"service center, etc., issues a predetermined electronic key"* [col. 5, ll. 19-33]),

wherein said contents of use limitations are derived (*"user can proceed to the authorized use of a function program by the input of an electronic key which releases the function program from access-protect (function release)"* [col. 5, l. 57 - col. 6, l. 11]) from said use-permitting key information (*"input a function release electronic key"* [fig. 4(a)]; *"service center, etc., issues a predetermined electronic key"* [col. 5, ll. 19-33]).

18. But Nakamura does not disclose a mobile terminal having a wireless communication function and an infrared ray communication function, and an infrared light receiving unit operable to receive information transmitted by infrared communication from the mobile terminal, and transmitting information over a network.

19. However, Matsumoto teaches a mobile terminal (“*remote commander – 91*” [fig. 3]) having a wireless communication function (“*infrared ray signal*” [col. 7, ll. 51-55]) and an infrared ray communication function (“*infrared ray signal*” [col. 7, ll. 51-55]), and an infrared light receiving unit (“*light receiving unit – 21*” and “*infrared-ray I/F driver – 22*” [fig. 3]) operable to receive information (“*information to the light receiving unit 21*” [col. 7, ll. 51-55]) transmitted by infrared communication (“*infrared ray signal*” [col. 7, ll. 51-55]) from the mobile terminal (“*remote commander*” [fig. 3]), and transmitting information over a network (“*capable of exchanging various kinds of information by way of transmission line 3 which is typically implemented by a public line network*” [col. 4, l. 66 - col. 5, l. 7]; [fig. 1]; [fig. 3]).

20. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Nakamura so as to have included a mobile terminal having a wireless communication function and an infrared ray communication function, and an infrared light receiving unit operable to receive information transmitted by infrared communication from the mobile terminal, and transmitting information over a network, in accordance with the teaching of Matsumoto, in order to increase convenience and mobility by providing a wireless device capable of performing the use limited functions as well as the standard network necessary to transmit information.

21. Claims 5, 8, and 10, as best understood by Examiner, are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura in view of Matsumoto, in further view of U.S. Patent No. 6,223,166 to Kay.

22. Regarding **claim 5**, Nakamura discloses a scanner ([fig. 1]) operable to read second use-permitting key information (“*Press [Start Trial], or Input a Function Release Electronic Key*” [fig. 4(b)]), wherein said contents of use limitations are derived (“*user can proceed to the authorized use of a function program by the input of an electronic key which releases the function program from access-protect (function release)*” [col. 5, l. 57 - col. 6, l. 11]) from said second (“*Press [Start Trial], or Input a Function Release Electronic Key*” [fig. 4(b)]) use-permitting key information (“*input a function release electronic key*” [fig. 4(a)]; “*service center, etc., issues a predetermined electronic key*” [col. 5, ll. 19-33]).

23. But Nakamura does not explicitly disclose a bar code readout unit operable to read use-permitting key information, printed as a bar code, supplied from a source of use permission.

24. However, Kay teaches a bar code readout unit (“*portable scanner*” [col. 4, ll. 29-41]) operable to read use-permitting key information (“*scan the ticket bar code for authentication*” [col. 4, ll. 29-41]), printed as a bar code (“*bar code*” [col. 4, ll. 29-41]), supplied from a source of use permission (“*Ticket Server*” [fig. 1]).

25. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Nakamura so as to have included a bar code readout unit operable to read use-permitting key information, printed as a bar code, supplied from a source of use permission, in accordance with the teaching of Kay, in order to provide an easily transportable hard copy ticket containing the use-permitting key information for added convenience.

26. Regarding **claim 8**, Nakamura discloses an electronic apparatus ([fig. 3]) but does not explicitly disclose operable to transmit identifying information for identifying the electronic apparatus and a request for permission for using the electronic apparatus over a network to a server of a source of use permission.

27. However, Kay teaches operable to transmit ("*electronic tickets are transmitted*" [col. 4, ll. 29-41]; [fig. 1]) [event] identifying information ("*selects a ticket for purchase to an event*" [abstract]) for identifying the [event] ("*code is compared against the event description*" [abstract]) and a request for permission for using the [event] ("*ticket is accepted for admission to the event*" [abstract]) over a network ("*electronically linked*" [col. 3, ll. 27-48]) to a server ("*to a web site 18*" [col. 3, ll. 27-48]; [fig. 1]) of a source of use permission ("*for selection and purchase by an operator of the remote user station*" [col. 3, ll. 27-48]).

28. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Nakamura so as to have included operable to transmit identifying information for identifying the electronic apparatus and a request for permission for using the electronic apparatus over a network to a server of a source of use permission, in accordance with the teaching of Kay, in order to provide increased accessibility by using a network to request and receive the electronic ticket from a centralized location.

29. Regarding **claim 10**, Nakamura discloses a storage operable to store the number of days or times said one or more functions has been used ("*number of use according to a use status*" [col. 14, ll. 34-40]) in said function executing unit ("*system*" [col. 2, ll. 26-34]),

wherein said processor (“*control section*” [col. 2, ll. 8-18]) when requested to execute said one or more functions (“*FIG. 12 ... flow of the process ... function of the subprogram P20 is used*” [col. 8, ll. 39-63]) references the contents of use limitations (“*control section 22 checks whether it is within a trial period*” [col. 8, ll. 64-67 – col. 9, ll. 1-24]; *Step S43* [fig. 12]) stored in said storage and said information representing at least one of the number of days or the number of times of use of said one or more functions (“*examining whether or not the number of use of trial reached a predetermined number of times*” [col. 8, ll. 64-67 – col. 9, ll. 1-24]), said information being stored in said storage (“*storage section*” [fig. 1]; “*period is set by the management program*” [col. 6, ll. 37-54]) to control execution of said one or more function (“*thereby terminating the process*” [col. 8, ll. 64-67 – col. 9, ll. 1-24]).

30. But Nakamura does not explicitly disclose that the second storage means is distinct from the first storage means.

31. However, it is admitted prior art that if two sets of data can be stored in one storage device, the second set of data can alternatively be stored in a second storage device.

32. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Nakamura so as to have included a second storage, in accordance with the admitted prior art, in order to allow data to be manipulated separately without the chance of manipulating the first set of data by providing a separate storage location.

Response to Arguments

Applicants' Arguments Regarding "over a network":

33. Applicants argue Nakamura in view of Matsumoto does not disclose transmission "over a network."

Examiner's Response:

34. The Examiner respectfully disagrees.

35. In particular, although the Examiner acknowledges that Nakamura does not explicitly disclose transmission over a network, even though logically necessary in Nakamura, Matsumoto does explicitly disclose a transmission of information being over a network. For example, Matsumoto discloses a system "capable of exchanging various kinds of information by way of transmission line 3 which is typically implemented by a public line network" ([col. 4, l. 66 - col. 5, l. 7]; [fig. 1]; [fig. 3]). In other words, Matsumoto explicitly discloses transmitting information over a network.

36. The Examiner respectfully points out that the claims do not require the infrared light receiving unit to be on a network, only that the information be transmitted over a network.

37. The above responses apply to the dependent claims by virtue of their dependencies on the independent claims.

Definitions

38. The Examiner hereby adopts the following definitions under the broadest reasonable interpretation standard. In accordance with *In re Morris*, 127 F.3d 1048, 1056, 44 USPQ2d

1023, 1029 (Fed. Cir. 1997), the Examiner points to these other sources to support his interpretation of the claims.¹ Additionally, these definitions are only a guide to claim terminology since claim terms must be interpreted in context of the surrounding claim language. Finally, the following list is not intended to be exhaustive in any way:

39. **Network “(2)(A) (data transmission)** A series of points interconnected by communication channels.” IEEE 100 The Authoritative Dictionary of IEEE Standards Terms, 7th Edition, IEEE, Inc., New York, NY, Dec. 2000.

Conclusion

40. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to C. Aaron McIntyre whose telephone number is (571) 270-5401. The Examiner can normally be reached on Monday to Thursday 9-6 ET.

41. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner’s supervisor, Andrew J. Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

42. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

¹ While most definition(s) are cited because these terms are found in the claims, the Examiner may have provided additional definition(s) to help interpret words, phrases, or concepts found in the definitions themselves or in the prior art.

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. A. M./

Examiner, Art Unit 3621

December 30, 2009

/ANDREW J. FISCHER/

Supervisory Patent Examiner, Art Unit 3621